

The Honorable MARSHA J. PECHMAN

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

CASSIE CORDELL TRUEBLOOD,
next friend of A.B., an incapacitated
person, et al.,

Plaintiffs,

v.

THE WASHINGTON STATE
DEPARTMENT OF SOCIAL AND
HEALTH SERVICES, et al.,

Defendants.

NO. 2:14-cv-1178 MJP

DECLARATION OF
DR. THOMAS J. KINLEN IN
SUPPORT OF DSHS'S
REQUEST FOR RELIEF FROM
FINES PER DKT. NO. 1143

I, Thomas J. Kinlen, am over the age of 18 years of age, competent to testify to the matters below, and declare based upon personal knowledge:

1. I am the Director of the Office of Forensic Mental Health Services (OFMHS) within the Behavioral Health Administration of the Department of Social and Health Services (Department). As the Director, I am also at the level of a Deputy Assistant Secretary and an Appointing Authority who is an authorized representative of the Department.

2. As the Director, I am responsible for the delivery of forensic services in the state of Washington, which includes diversion activities including overall oversight of three prosecutorial diversion programs, workforce development in forensic mental health, competency to stand trial evaluations, competency restoration policy development, treatment and treatment

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1 quality assurance, oversight of forensic navigators, collaboration with residential treatment
 2 facilities for competency restoration, assignment and completion of re-evaluations for the
 3 Not Guilty by Reason of Insanity (NGRI) population, and policy development and quality
 4 assurance for NGRI treatment. I am also responsible for the operation of OFMHS, which
 5 includes collaborating and assisting in the contract and administrative management with
 6 competency restoration sites, establishing consistent policies, procedures and practices across
 7 the competency sites and state hospitals, assisting forensic evaluators and navigators in
 8 completing job duties as assigned, assisting with policy development at the agency and hospital
 9 level including preparing and testifying on agency request legislation, oversight of the processing
 10 of court orders, and working with the key partners across the state in addressing any issues and
 11 concerns related to forensic patients. All competency restoration referrals are screened to
 12 determine whether admission to the restoration treatment facilities is clinically appropriate. I am
 13 familiar with the process concerning admission to these facilities for competency evaluation and
 14 restoration treatment services.

15 3. As established between the parties, and with this Court's orders in mind, the State
 16 sends its Good Cause Exception requests and documentation from the trial court to Plaintiffs'
 17 counsel, who then review to take a position as to whether a given request is compliant with this
 18 Court's injunction.

19 4. The State is only requesting GCE credit, or relief from fines, where the parties
 20 are agreed that a given request is compliant with the Court's injunction.

21 5. These requests are now being presented to this Court, and only after this Court's
 22 approval will the Department actually adjust any of its fines numbers pursuant to GCE requests.

23 6. Attached to this declaration as Exhibit A is a summary and accounting of cases
 24 where records indicate that a state trial court found a good cause exception for a delay in
 25 evaluation and entered an order that the Department believes to be compliant with this Court's
 26 modified permanent injunction. The amount of fines credit requested in Exhibit A comes from a

1 manual review of cases and is the expected maximum downward adjustment to fines that the
 2 Department would make to its accounting systems should the Court approve these requests.
 3 Attached to this declaration as Exhibit B are the underlying orders summarized in Exhibit A.
 4 Plaintiff's counsel were provided an opportunity to review these cases and, based on the
 5 feedback they provided to the Department, the Department expects Plaintiffs to agree with the
 6 Department's request for relief from fines for this case.

7 7. The Department continues to have difficulty in encouraging its state court
 8 partners to consider and rule on its requests for good cause extensions.

9 8. To better demonstrate the scope of this problem, the State has also asked
 10 Plaintiffs' counsel to review additional cases and opine on whether the Department *would have*
 11 *been eligible* for GCE credit but for a lack of written court order with an individualized finding.
 12 Plaintiffs have been provided with documentation on each of these cases which includes a
 13 request for GCE as well as documentation demonstrating that the evaluator made the request on
 14 a basis permitted by the modified permanent injunction. Attached to this declaration as Exhibit C
 15 is a summary and accounting of these cases, where the Department believes it would be
 16 requesting credit from fines had the state trial court acted on its request for a GCE. Exhibit D
 17 contains documentation for the cases summarized in Exhibit C, for more context. Again, the
 18 Department is not requesting reversal of fines for these cases but can indicate, based on feedback
 19 provided by Plaintiffs' counsel, that Plaintiffs would support such a request if the state trial court
 20 had acted on the Department's request for findings indicating good cause for an extension.

21 9. Additionally, there are also instances where the Department tried to evaluate a
 22 patient timely, but was thwarted by non-party actors, or otherwise delayed despite the
 23 Department's best efforts. The Department's practice in these situations is to file a "notice of
 24 delay" with the trial court. The notice of delay is just that – a notification to the trial court and
 25 the parties that a delay has occurred, the nature of the delay, and when the evaluator believes
 26 they will be able to complete the evaluation. Nevertheless, these fact patterns can be nuanced,

1 and delays can sometimes occur for multiple reasons. As a result, the Department sometimes
 2 does secure a good cause extension from the state trial court. But, because the final basis for
 3 these delays is not enumerated by this Court's modified permanent injunction, the Department
 4 is not requesting reversal of fines for these cases.

5 10. Accordingly, and to also demonstrate the degree to which non-party actors are
 6 able to obstruct the Department's efforts towards compliance with this Court's injunctions and
 7 orders, the State has asked Plaintiffs' counsel for their opinion on a third subset of cases, where
 8 the State does not believe the facts of the given scenario meet with exceptions provided by the
 9 permanent injunction, but the reasons for any delay are not attributable to the Department in this
 10 matter. Attached to this declaration as Exhibit E is a summary and accounting of these cases,
 11 where the Department believes it is not able to request credit from fines, but accrued fines
 12 because of the action (or inaction) of third-party actors, and despite reasonable efforts to
 13 surmount any complications. Exhibit F contains documentation for the cases summarized in
 14 Exhibit E, for more context. The Department is not requesting reversal of fines for these cases
 15 but can indicate, based on feedback provided by Plaintiffs' counsel, that Plaintiffs appear to
 16 agree that delays in these cases was not attributable to the Department.

17 11. Again, the State is not requesting relief from contempt fines for these second and
 18 third groupings of cases. The purpose of including this information here is to aid the Court, state
 19 legislators, state executive officials and county officials in understanding the extent to which
 20 other county or non-party actors have frustrated the Department's efforts towards compliance,
 21 and the barriers that remain despite the Department's efforts to better relations with its county
 22 partners.

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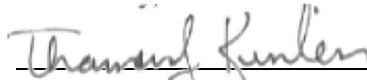
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1 I declare under penalty of perjury under the laws of the United States and the State of
2 Washington that the foregoing is true and correct to the best of my knowledge.

3 Signed this 30th day of April 2025, at Olympia, Washington.

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6 THOMAS J. KINLEN

7 Director of the Office of Forensic Mental Health Services
8 Behavioral Health Administration
9 Department of Social and Health Services
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CERTIFICATE OF SERVICE

I, *Marko Pavela*, state and declare as follows:

I am a citizen of the United States of America and over the age of 18 years and I am competent to testify to the matters set forth herein. I hereby certify that on this 30th day of April 2025, I caused to be filed electronically with foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Chloe Merino: chloem@dr-wa.org

Kimberly Mosolf: kmosolf@gmail.com

Christopher Carney: Christopher.Carney@CGILaw.com

Sean Gillespie: Sean.Gillespie@CGILaw.com

David JW Hackett: david.hackett@kingcounty.gov

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Dated this 30th day of April 2025, at Olympia, Washington.

s/ Marko Pavela
MARKO PAVELA, AAG